

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT TACOMA

RANCE POINTEC,

Plaintiff,

v.

J GEOGHEGAN, C THAMERT,
FETROE, FLUAITT ,

Defendants.

CASE NO. C12-5578 BHS/KLS

ORDER DENYING MOTION TO
AMEND COMPLAINT

Before the Court is Plaintiff's Motion for Leave to File Amended Complaint. ECF No. 15. Also included in Plaintiff's filing is his response to the Defendants' Motion to Dismiss (re-filed at ECF No. 18). *Id.* The motion to dismiss shall be addressed under a separate report and recommendation. For the reasons set forth herein, the Court finds that Plaintiff's motion to amend shall be denied.

BACKGROUND

Plaintiff, Rance Pointec, filed a 42 U.S.C. §1983 civil rights action against Washington State Department of Corrections (DOC) staff who are assigned to work at the Coyote Ridge Corrections Center (CRCC). Plaintiff's motion to proceed *in forma pauperis* was granted and the complaint was filed on July 30, 2012. ECF Nos. 5 and 6. In his complaint, Plaintiff alleges the Defendants failed to properly diagnose and treat his broken finger. ECF No. 6 at 3. Plaintiff asks the Court to issue a declaratory judgment, as well as award compensatory damages of \$300,000 and punitive damages of \$250,000. ECF No. 6 at 4.

DISCUSSION

A party may amend its complaint with the court's leave, and leave shall be freely given where "justice so requires." *Theme Promotions, Inc. v. News America Marketing FSI*, 546 F.3d 991, 1010 (9th Cir.2008) (citing to Fed. R. Civ. P. 15). Although the courts apply this policy liberally, leave to amend will not be granted where an amendment would be futile. *Id.* (citing *DCD Programs, Ltd. v. Leighton*, 833 F.2d 183, 186 (9th Cir.1987)); *Johnson v. American Airlines, Inc.*, 834 F.2d 721, 724 (9th Cir.1987) ("courts have discretion to deny leave to amend a complaint for 'futility,' and futility includes the inevitability of a claim's defeat on summary judgment."); *Gabrielson v. Montgomery Ward & Co.*, 785 F.2d 762, 766 (9th Cir. 1986) ("any amendment would have been futile in that it could be defeated on a motion for summary judgment").

In his motion, the Plaintiff asks to amend his complaint to include the following language: "prison medical officials displayed deliberate indifference to my medical care and pain around the clock over 75 days." ECF No. 15 at 3. Plaintiff has already stated in his complaint that he was in pain and that Defendants were deliberately indifferent to that pain and his treatment. ECF No. 6 at 4. Therefore, the proposed amendment is unnecessary.

Accordingly, it is **ORDERED:**

(1) Plaintiff's Motion for Leave to File Amended Complaint (ECF No. 15) is **DENIED.**

(2) The Clerk shall send a copy of this Order to Plaintiff and counsel for Defendants.

DATED this 14th day of January, 2013.



Karen L. Strombom
United States Magistrate Judge